

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RITA RODIN-JOHNSTON,

Plaintiff,

-against-

HOTEL LES ATELIERS DE L'IMAGE, SARL
GODARD FRANCE ASSOCIES, ALAIN
GODARD, FRANCINE GODARD, and
JEROME GODARD,

Defendants.

11 Civ. 00638 (GBD)

DECLARATION OF ALAIN GODARD
IN SUPPORT OF MOTION TO DISMISS

ALAIN GODARD hereby declares pursuant to 28 U.S.C. § 1746 as follows:

1. I am a former member of SARL Godard France Associés (“SARL Godard”), a defendant in this case. Unless otherwise stated, I have personal knowledge of the facts stated herein and if called upon to testify, I could and would do so truthfully.
2. Upon information and belief, defendant SARL Godard France Associés (“SARL Godard”) is a French limited liability company that continues to have its address at 36 Boulevard Victor Hugo a 13210 Saint Remy du Provence, France.
3. Upon information and belief, SARL Godard continues to own, operate, and manage Hotel Les Ateliers de L’Image (the “Hotel”), also located at 36 Boulevard Victor Hugo, 13210 St. Remy de Provence, in France.
4. Prior to December 6, 2008, the members of SARL Godard were myself and my wife, Francine Godard. We are both citizens of France who reside at 8 rue Marcellin Blanc, 69110 Sainte Foy les Lyon, France.
5. On December 6, 2008, my wife and I sold our interest in SARL Godard to Charles Andre SAS, a French company. Upon information and belief, Charles Andre SAS is

now the sole member of SARL Godard. Since December 6, 2008, neither I nor my wife have had any involvement in the ownership, operation, or management of SARL Godard or the Hotel.

6. Jerome Godard is my son. He is also a citizen of France who resides at 18 rue de l'Atlas, 75019 Paris, France. Jerome Godard is not, and has never been, a member of SARL Godard. Other than being hired as a third-party independent contractor in France to create and maintain the Hotel's website, Jerome has had no involvement with SARL Godard or the Hotel.
7. None of Alain Godard, Francine Godard, or Jerome Godard ("the Godards") owns any property in the State of New York or maintains a telephone number, mailing address, or bank account in the State of New York.
8. Prior to December 6, 2008, SARL Godard did not have an office in the State of New York; did not own any property in the State of New York; did not have a telephone number, mailing address, or bank account in the State of New York; did not have an agent for service of process in the State of New York; was not authorized to do business in the State of New York; did not sell anything in the State of New York; and did not have any employees or agents in the State of New York. Upon information and belief, these facts continue to be true today.
9. The Hotel's website, www.hotelphoto.com (the "Website"), was created by my son, Jerome Godard. For as long as I was a member of SARL Godard, the Website was never targeted specifically at New York residents. Rather, it was equally accessible to anyone anywhere in the world. Upon information and belief, this continues to be true today.

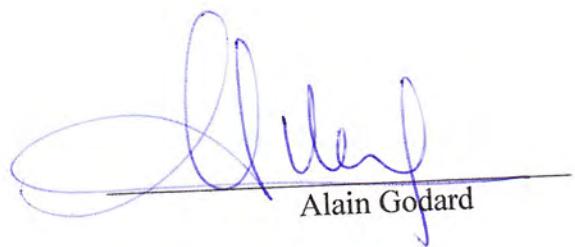
10. On or about February 18, 2005, the Website was registered with a French company, Gandi SAS (“Gandi”). Upon information and belief, the Website continued to be registered with Gandi until February 18, 2010.
11. Upon information and belief, since February 18, 2010, the Website has been registered with Domain Registry of America, which has its address at 2316 Delaware Avenue, Suite 266, New York 14216-2687 (the “Buffalo Address”).
12. For as long as I was a member of SARL Godard, neither SARL Godard nor the Hotel ever operated out of the Buffalo Address or any other address in the United States. The Buffalo Address was never used to conduct business for SARL Godard or the Hotel, it was not listed on the Website, and neither SARL Godard nor the Hotel received mail or other correspondence at that address.
13. None of the Godards has ever been to Buffalo, New York.
14. Domain Registry of America never acted as an agent or representative of SARL Godard, the Hotel, Alain Godard, or Francine Godard. Domain Registry of America was not authorized to accept service on behalf of any of us.
15. I understand that information about the Hotel is available on several third-party travel websites, such as Hotel.com, Priceline.com, American Express, Concierge/travelguide.com, Book.com, Expedia.com, Tablet.com, and Exclusive Hotels (the “Third-Party Travel Sites”), and that some or all of these websites allow individuals to book rooms at the Hotel. This was also the case prior to December 6, 2008.
16. None of these Third-Party Travel Sites is authorized to act as agent of the Hotel.
17. At no time while I was a member of SARL Godard did the Hotel enter into any exclusive relationship with any of the Third Party Travel Sites. Rather, upon

information and belief, these Sites offer reservations at thousands of hotels around the world.

18. Each year the Hotel entered into written contracts with Third-Party Travel Sites whereby they purchased a certain number of rooms at the Hotel, exclusive of any fees and charges incurred by the individual during his/her stay at the Hotel. Upon information and belief, the Third-Party Travel Sites then sold those rooms at a marked-up rate to individual customers. The Hotel was paid directly by the Third-Party Travel Sites in advance pursuant to the written contracts, and the Third-Party Travel Sites were the merchants of record for any rooms booked through them.
19. The Third-Party Travel Sites had no authority to book rooms at the Hotel except pursuant to the written contracts described above. At no time did any of the Third Party Travel Sites act as an intermediary or an agent of the Hotel.
20. At the time that Ms. Rodin-Johnston stayed at the Hotel I was still a member of SARL Godard and involved in the Hotel. When a customer booked a reservation through the Hotel's website or a Third-Party Travel Site, such information was reflected on the invoice. Attached as Exhibit 1 is a true and correct copy of an invoice for Ms. Rodin-Johnston's stay at the Hotel.
21. The invoice bears no indication that Ms. Rodin-Johnston booked her reservation through the Hotel's website or a Third-Party Travel Site. Upon information and belief, Ms. Rodin-Johnston made her reservation by telephone through a friend based in Saint-Remy de Provence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 3⁴, 2011



Alain Godard